

LABOUR DEPARTMENT

The 11th May, 1981

No. 9(1)81-8Lab/497 -In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Industrial Tribunal, Faridabad in respect of the dispute between the workman and the management of M/s. Endee Woollen and Silk Mills Pvt. Ltd., Faridabad:—

BEFORE SHRI M. C. BHARDWAJ, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL, HARYANA, FARIDABAD

Reference No. 170 of 1978

between

SHRI SHIV KUMAR, WORKMAN AND THE MANAGEMENT OF M/S ENDEE WOOLLEN AND SILK MILLS PVT. LTD., FARIDABAD

Present —

Shri Yoginder Singh. for the workman. .

Shri O. P. T. agi, for the management. .

AWARD

By order No. PD 47-N-78/29684, dated 25th June, 1978 the Governor of Haryana referred the following dispute between the management of M/s. Endee Woollen and Silk Mills Private Limited, Faridabad and its workman Shri Shiv Kumar to this Tribunal for adjudication, in exercise of the powers conferred by clause (d) of sub section (1) of section 10 of the Industrial Disputes Act, 1947:—

Whether the termination of services of Shri Shiv Kumar was justified and in order? If not, to what relief is he entitled?

On receipt of the order of reference, notices were issued to the parties. The parties appeared and filed their pleadings. On the pleadings of the parties, following issues were framed on 24th June 1979:—

1. Whether the workman abandoned his job of his own?
2. Whether the workman is gainfully employed?
3. Whether the termination of services of Shri Shiv Kumar was justified and in order? If not, to what relief is he entitled? ?

And the case was fixed for the evidence of the management who examined Shri P. K. Sukumaran as MW-1 and closed their case. Then the case was fixed for the evidence of the workman, who examined himself as WW-1 and closed his case. Arguments were heard. Now I give my finding issueswise:—

Issue No. 1.—MW-1 stated that he was working with the management from February, 1978. He also worked in the year 1976-77. Exhibit M-1 was extract from the attendance register which was prepared by him. Exhibit M-2 was extract from the Certified Standing Orders. He further stated that the workman was on leave from 10th January, 1978 to 6th February, 1978. He was marked absent upto 10th February, 1978. In the attendance register there was a line and in the remarks column is written 'left'. Exhibit M-3 was his report. Exhibit M-5 was also another report in his hand. Letter Exhibit M-6 was sent to the workman. The management did not receive any application for extension of leave. In cross examination he denied the suggestion that the management received application by Regd. post. All the dak received by the management was entered by him in the register. The management had sent letter Exhibit M-4 before striking off the name. Exhibit M-4 and M-6 were sent by ordinary post.

WW-1 stated that he worked with the management for 1½ years. He went on leave on 20th January, 1978 to 4th February, 1978. He fell sick. He came to join duty on 23rd February, 1978. He further stated that he sent medical certificate to the management by post. Copy of the same was Exhibit W-1. He was told by the management that his name had been removed. In cross examination he stated that he did not write any letter to the management except certificate

Exhibit W-1 which he sent on 4th of February. In Exhibit M-1 the workman is shown on leave from 20th January, 1978 to 4th February, 1978 and from 7th February, 1978 to 20th February, 1978 he is shown as absent with word 'left' in a remarks column. Exhibit W-1 is photo copy of a medical certificate which is dated 22nd February, 1978. The workman in his statement stated that only Exhibit W-1 was sent to the management that too on 4th of February but this is wrong on the face of it because the certificate is dated 22nd February 1978. He came to the factory on 23rd February, 1978 when his name had been removed from the rolls. Clause 10 (4) of the Certified Standing Orders states that if the workman remains absent without sanctioned leave or beyond the period of leave originally granted or subsequently extended he shall lose his lien on his appointment, unless he returns within 6 days of the commencement of absence and explains about his inability to return etc.

Thus I find that the action of the management is fortified by the above clause of the Standing Orders as the workman admittedly returned after 10 days of the commencement of absence. This issue is decided in favour of the management.

Issues No. 2 and 3 - On the finding of issue No. 1 being in favour of the management these issues need no decision.

While answering the reference, I give my award that the management did not terminate the services of the workman rather on the other hand the workman abandoned his job of his own. The workman is not entitled to any relief.

Dated the 24th March, 1981.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

No. 358, dated the 23rd April, 1981

Forwarded (four copies) to the Secretary to Government, Haryana, Labour and Employment Departments, Chandigarh as required under section 15 of the Industrial Disputes Act, 1947.

M. C. BHARDWAJ,
Presiding Officer,
Industrial Tribunal, Haryana,
Faridabad.

The 19th May, 1981

No. 9(181-8 Lab. 5653. In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workman and the management of M/s Haryana Concast Ltd., Hissar.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR
COURT, HARYANA, ROHTAK
Reference No. 280 of 1978

between

SHRI RANJIT SINGH, WORKMAN AND THE MANAGEMENT OF M/S HARYANA
CONCAST LTD., HISSAR.

Present:—

No one for the workman.

Shri M. M. Kaushal, for the management.

AWARD

This reference has been referred to this Court by the Hon'ble Governor,—vide his order No. ID/H/R/48-78/4344, dated 9th October, 1978, under section 10(i)(c) of the Industrial Disputes Act, 1947, for adjudication of the dispute existing between Shri Ranjit Singh, workman and the management of M/s Haryana Concast Ltd., Hissar. The term of the reference was:—

Whether the termination of services of Shri Ranjit Singh was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The management appeared in response to the same but no one appeared on behalf of the workman. Another notice was issued to the workman for next date i.e. 27th December, 1978 when both the parties appeared. The parties filed their pleadings. The following issues were framed on the basis of the pleadings of the parties:—

1. Whether Shri S. R. Gupta cannot appear as an authorised representative of the workman?
2. Whether the applicant is covered under the definition of workman as given in section 2(S) of the Indian Disputes Act?
3. As per reference?

The workman was asked to lead his evidence first but the workman did not turn up. The workman representative withdrew himself from pursuing the case of the applicant as he had no instructions from the applicant. Fresh notice was issued to the applicant informing him the fact of withdrawal of Shri S. R. Gupta from the case but the workman did not appear and the notice was received back with the report that the applicant had left the place of address. Then my learned professor ordered for taking up *ex parte* proceedings against the applicant. The *ex parte* evidence of the management was recorded. I heard the learned representative of the management and decide the issues as under after careful consideration of the evidence of the record.

Issue No. 1.—This issue was not pressed by the management and it also became infructuous when Shri S. R. Gupta withdrew himself from appearing on behalf of the workman. The same is accordingly decided against the management.

Issue No. 2.—The management witness Shri R. C. Mehta deposed that Shri Ranjit Singh was getting Rs. 56-75 paise as his monthly salary at the time of his termination on 7th July, 1978. The salary sheet photostat copy produced by him was Ex. No. A and B. The post held by Shri Ranjit Singh was that of Administrative Assistant and he was incharge of the P.S.I. section. Two clerks were working under him. Shri Ranjit Singh in this capacity would issue warning letters, advice notes and sanction leave to his subordinates. The applicant did not adduce any evidence rather chose to stay away from the proceedings. The statement of the management witness has remained un rebutted.

I have no choice but to rely the un rebutted *ex parte* evidence of the management and I am further driven to hold that Shri Ranjit Singh who is employed in a supervisory capacity and whose pay is Rs. 586-75 paise which exceeds Rs. 500- is excluded from the definition of workman as given in section 2(S) of the Industrial Dispute Act, 1947. This issue is therefore decided against the workman and in favour of the management.

Issue No. 3.—When issue no. 2 has been decided against the applicant he is not entitled to raise any industrial dispute under section 2(A) of the Industrial Dispute Act, 1947 against the dismissal and the reference is bad in law as the dispute referred for adjudication is not industrial dispute. The reference is answered and returned in these terms. No order as to cost.

BANWARI LAL DALAL,

Dated the 6th June, 1981.

Presiding Officer,
Labour Court, Haryana, Rohtak,

Endorsement No. 1480, dated 11th May, 1981.

Forwarded (four copies) to the Secretary to Government of Haryana, Labour and Employment Departments, Chandigarh, as required under section 15 of the Industrial Disputes Act.

BANWARI LAL DALAL,

Presiding Officer,
Labour Court, Haryana, Rohtak.

The 19th May, 1981

No. 9(1)81 8-Lab/5656.—In pursuance of the provision of section 17 of the Industrial Disputes Act, 1947 (Act No. XIV of 1947), the Governor of Haryana is pleased to publish the following award of the Presiding Officer, Labour Court, Rohtak in respect of the dispute between the workmen and the management of M/s Bhatia Publisher, Bazar Radha Kishan, Ambala City.

BEFORE SHRI BANWARI LAL DALAL, PRESIDING OFFICER, LABOUR COURT,
HARYANA, ROHTAK

Reference No. 37 of 1979

between

SHRI MILAP CHAND, WORKMAN, AND THE MANAGEMENT OF M/S BHATIA PUBLISHERS,
BAZAR RADHA KRISHAN, AMBALA CITY

Present :

Shri Rajeshwar Nath, for the Workman.

Shri S. C. Chawla, for the management.

AWARD

This reference has been referred to this court by the Hon'ble Governor.—*vide* his order No. Amb/6-73/4937, dated 3rd February, 1979 under section 10 (i) (c) of the L. Act for adjudication of the dispute existing between Shri Milap Chand workman and the management of M/s Bhatia publishers, Ambala City. The term of the reference was:—

Whether the termination of services of Shri Milp Chand was justified and in order? If not, to what relief is he entitled?

On the receipt of the order of reference notices as usual were sent to the parties. The parties put in their appearance in response to the same, filed their respective pleadings. The management made an offer to the workman to take him back on duty if he was ready to furnish two surities for good conduct and not withholding the money received as sale receipt but the workman was not prepared to join on furnishing such surities. The following issues were framed on the basis of the pleadings of the parties:—

1. Whether the workman abandoned his post voluntarily as alleged in written statement? If not as per reference?
2. Whether the workman was gainfully employed anywhere?

Three witnesses were examined on behalf of the management. The workman examined himself and Shri Madan Lal as his witness.

I heard the learned representatives and have seen the record. I decide the issuewise as under:—

Issue No 1.—The case of the management is that the workman did not come to attend his duty after 11th November, 1978 as he was conscious of his misdeeds and he was not able to face the situation created by him owing to his continued absence his services ultimately resulted in termination. The workman on the other hand stated that his services were terminated without any rhyme or reason. No charge-sheet was issued to him nor any enquiry was held. He denied the suggestion that he abandoned his services wilfully though he admitted in his cross examination that he made a complaint to the Income Tax Authority against the respondent, after his termination. The workman could not explain that why he served the demand notice exhibit M-1 after twenty days of his termination.

The statement of MW-3 that the workman asked him for clearance of his account is corroborated by MW-1 and the fact that if his accounts were not cleared the workman will lodge a complaint with the Income Tax Authority has also been corroborated by the admission of the workman. The refusal of the workman to join duties on furnishing of two surities to his good behaviour goes to prove that the workman is not interested in his reinstatement which further goes to support the case of the management that the workman left the services of the management on his own accord. This clearly proves that the management never terminated the services of the workman. This issue is accordingly decided in favour of the management.

Issue No. 2.—When issue no. 1 has been decided in favour of the management issue No. 2 needs no decision.

I therefore hold that the workman abandoned his job on his own accord and the management did not terminate the services of the workman. No justification of termination is required of the management. The workman is therefore not entitled to any relief. The reference is answered and returned in these terms. No order as to costs.

The 7th May, 1981

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana,
Rohtak.

Endorsement No. 1484, dated 11th May, 1981

Forwarded (four copies) to the Secretary to Government of Haryana, Labour & Employment Departments, Chandigarh as required under section 15 of the I. D. Act.

BANWARI LAL DALAL,
Presiding Officer,
Labour Court, Haryana, Rohtak.